

Notice of Allowability

Application No.

10/037,928

Examiner

Carol Chaney

Applicant(s)

LEE ET AL.

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1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 29 June 2004.
2. ☐ The allowed claim(s) is/are 1-12 and 15-27.
3. ☒ The drawings filed on 03 April 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Allowable Subject Matter

Claims 1-12, and 15-27 are allowed.

The following is an examiner's statement of reasons for allowance:

Applicants' amendment reciting a "*peripheral fluid separator*" overcomes the rejections under 35 USC 112, second paragraph. The term "*peripheral fluid separator*", is distinct from the term "separator plate", or as a shortened form, "separator", which are term of art. It is note that the term "separator occurs frequently in the literature to describe the term "separator plate". See, for example,

US 20030082429 A1

US 20030072983 A1

US 20030068543 A1

US 20030068541 A1

US 20030054224 A1

US 20030054223 A1

US 20030048091 A1

US 20030044657 A1

US 20030044655 A1

US 20030027032 A1

US 20030022057 A1

US 20030022046 A1

US 20030013004 A1

US 20030008195 A1

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US 20020192531 A1

US 20020187386 A1

US 20020187384 A1

US 20020187382 A1

US 20020160248 A1

US 20020150810 A1

US 20020150808 A1

US 20020146612 A1

US 5897766 A

US 5858569 A

US 5776624 A

US 5736269 A

US 5677073 A

US 5631099 A

US 5419980 A

US 5364711 A

US 4826741 A

which use the term “separator” to refer to a conductive plate in a fuel cell stack that acts as an anode for one cell and a cathode in the adjacent cell.

Because applicants’ specification as originally filed describes their invention as an “edge” separator (see paragraph 13) and the term “periphery” is synonymous with

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"edge", applicants' amendments do not introduce new matter into the specification. See

Merriam-Webster (www.m-w.com) :

Entry Word: **periphery**

Function: *noun*

Synonyms CIRCUMFERENCE, ambit, circuit, compass, perimeter

Synonyms BORDER 1, brim, brink, **edge**, fringe, hem, margin, perimeter, skirt, verge.

As noted by the applicants, the nearest prior art of record, Washington and Marchetti, do not disclose a peripheral fluid separator which is attached or bonded to the periphery of the MEA. Washington, Figure 3 shows an edge seal (120) bonded to the anode and cathode (112) and (108) but not to MEA (110). Marchetti seal a plate/gasket assembly, or "peripherally fluid separator" to membrane portions of the MEA but do not seal the assembly to the periphery of the actual MEA.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol Chaney whose telephone number is (571) 272-1284. The examiner can normally be reached on Mon - Fri 8:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Carol Chaney
Primary Examiner
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18 September 2004